



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

971 BAIL APPLICATION NO. 1899 OF 2024

VIRU S/O KOKESH @ RAJU PAWAR
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr. Prashant Prabhakar Giri
APP for Respondent-State : Mr.A.S. Shinde

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CORAM : S. G. MEHARE, J.

DATE : 23rd October, 2024.

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the respondent-State.
2. The applicant seeks bail in Crime No.539 of 2024 registered with M.I.D.C. Waluj Police Station, Aurangabad, for the offences punishable under sections 302, 307 and 504 of the Indian Penal Code.
3. The applicant has a case that the deceased was taking his cow to administer the water. That cow run at him. He tried to beat the cow but unfortunately, the deceased was assaulted with a wooden log. He had no intention to kill the deceased. The postmortem report shows a single blow. Therefore, his learned counsel argued that it is not the case falling under section 302 of the Indian Penal Code. In fact no offence is made out against the applicant but, if the worst case is considered, he may be tried for the offence punishable under section 304 of the Indian Penal Code. After the incident also, he was present in the field. A family of the deceased was also residing in the adjoining

field. Nothing is to be recovered from the applicant. He is young boy of 22 years, having no antecedents to his discredit.

4. The learned APP strongly opposed the application. He would submit that the story of the applicant is not believable. There are direct eyewitnesses to the incident that the applicant deliberately assaulted the deceased with a wooden log. Beside head injuries, there were also contusions and abrasions on the body of the deceased. Offence is serious. Hence, he should not be granted bail.

5. In reply, the learned counsel for the applicant submits that the statements of the eyewitnesses were recorded after the inordinate delay. Hence, those cannot be used at this juncture.

6. Perused papers.

7. FIR appears to have been lodged immediately after the incident. However, the fact reveal that the deceased was taking his cow to administer the water and the cow run at him and the accused was to hit the cow. However, unfortunately, it was blown to deceased. In such situation, at this juncture, the probability of receiving the assault to the deceased while protecting him from cow can not be ruled out. Facts support the arguments of the learned counsel for the applicant. Nothing is to be recovered from him. He is young boy of 22 having no criminal antecedents. Hence, he deserves bail. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **VIRU S/O KOKESH @ RAJU PAWAR** be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of like amount, in the above crime for the aforesaid offences, on the following conditions :
 - (a) The applicant should not tamper with the prosecution witnesses.
 - (b) He should attend the concerned police station as and when required on written notice by the Investigating Officer till filing of the chargesheet.
- (iii) The observations are restricted to the bail application only.

(S.G. MEHARE, J.)